

**MARYLAND COMMISSION ON KIDNEY DISEASE
OPEN SESSION MEETING MINUTES
Thursday April 23, 2009
4201 Patterson Avenue, Room 108-109**

The Open Session meeting of the Commission on Kidney Disease was held on Thursday, April 23, 2009 at 4201 Patterson Avenue in room 108-109. The Chairman, Dr. Roland Einhorn called the meeting to order at 2:10 PM. Commission members present were: Drs. Dean Taylor, Ken Yim, Jeffrey Fink and Luis Gimenez, William Frederick, RN, Kim Sylvester, RN and Margery Pozefsky. Commission staff present were: Eva Schwartz, Executive Director and Donna Adcock, RN, Surveyor. Commission Counsel present: Leslie Schulman, AAG.

DHMH staff present: Carol Manning, Chief KDP, Chuck Lehman, Executive Director of Medicaid Systems Operations, Dee Spanos Medicaid Operations, Pam Ambush Burris, RN and Barbara Newman, RN, Board of Nursing, Barbara Fagan and Maria Krasnansky, RN, Office of Health Care Quality.

Guests present were:

Teri Gruenberg, Davita
Elena Balovlenkov, Davita
Pam Earll, Davita
Sharon Bloom, DHMH
Mary Keller, Davita
Steve Schell, Amgen
Charlotte Walkly, Western MD Hospital
Pam Pacheco, DCA
Ivy Simmons, Good Samaritan
Janice Weber, DCA
Richard Reichess, MPAG
Susan Leon, Bon Secours
Jacqueline Beckford, RAI
Maria Mursin, SSAKC
Wayne Fitzgerald, Western MD Hospital

Joan Guest, Davita
Paula Hollinger, DHMH
Chris Simon, IDF
Bonnie Kaiser, Davita
Brenda Redilla, Amgen
Teri Munoz, Western MD Hospital
Dick Robins, DCA
Brenda Falcone, NKF
Kim Bales, FMC
Juathawala Harris, Liberty
Renee Garnett, Davita
Stuart Lessner, Union Memorial
Sarra Johnson, RAI
Donyale Showers, FMC

I. APPROVAL OF January 29, 2009 MINUTES

The minutes were approved as submitted.

II. CHAIRMAN'S REPORT

Dr. Einhorn welcomed everyone to the spring meeting. He noted that it has been six months since the new Conditions for Coverage (CFC) became effective and he stated that the facilities are doing a good job adapting. He reported that the Commission is working on updating their regulations to align with the new CFC. Dr. Einhorn noted that two areas of concerns on surveys appear to be the Water and Dialysate Quality and Quality Assessment and Performance Improvement. He reiterated that these are both very important elements of the CFC. Dr. Einhorn stated that it is very important for the facilities to come into compliance with the new regulations.

III. EXECUTIVE DIRECTOR'S REPORT

A. Repayment of Cash Advances from the KDP

Mrs. Schwartz welcomed everyone and reported on the status of the repayment of cash advances from the KDP. She noted that the Department took an unprecedented action and issued cash advances in good faith to lessen the fiscal burden on facilities where KDP payments were in arrears. The Department has reviewed those cash advances and has determined that in some instances the advanced amount was more than was what was owed to the entity. Those entities have been notified that there are monies due to the State and a payment scheduled should be arranged. Mrs. Schwartz noted that entities that received cash advances signed a legal document and are obligated to repay the monies owed in a timely manner. She noted that the

Commission stands behind the Department and that if money is not returned to DHMH, the KDP budget will be short and **ALL the facilities will be impacted with reduced reimbursement.**

Mr. Lehman reiterated the possible fiscal impact on all the dialysis facilities if the cash advances are not returned.

B. Patients' Issues Regarding Uncertified Facilities

Mrs. Schwartz stated that the Commission is receiving complaints regarding facilities that are not certified by the Commission. She noted that these complaints are referred to the Office of Health Care Quality. Mrs. Schwartz reported that patients who dialyze in uncertified facilities are being penalized. If a patient dialyzes in an uncertified facility with the Commission, even if the patient has a KDP card, the patient is not eligible for KDP funds, including medication assistance. Patients must be affiliated with a certified facility in order to receive KDP benefits.

IV. OLD BUSINESS

A. Proposed Amendments to COMAR 10.30

Dr. Einhorn directed the guests' attention to the draft transplant regulations in their packet. He noted that the Commission will be promulgating new regulations that were discussed at the last Commission meeting as well, and these proposed regulations will include the transplant portion. Dr. Einhorn stated that the Commission will promulgate transplant regulations even though the CFC removed the transplant piece. The Commission wants to assure the protection of the transplant patients as well. Dr. Einhorn requested that the group review the document and forward any comments to the Commission office.

Ms. Schulman reviewed the posting and formal comment period information.

B. CNA-DT – Requirements for Certification

Ms. Ambush Burris reported that a letter to CNA-DT training programs was sent to the programs in February 2009. The letter explains the new requirements from the Maryland Board of Nursing (BON) to comply with the new CFC. Each training facility must identify their independent proctor and proctored site as required by the CFC. She noted that the BON is waiting for those responses.

Ms. Newman reported that the BON would recognize the National Exams referenced in the CFC: the BONENT, CCHT and the NNCC, for endorsement purposes. She noted that the BON is awaiting notification from CMS regarding the approval of the State's existing CNA-DT training program and exam as equivalent to the new requirements for certification.

She noted that the BON regulations will be updated to reflect these changes and the information will be sent out in writing.

Ms. Balovlenkov reported that BONENT has notified her that they will reinstate people who were certified but allowed their certification to lapse for up to 12 months. Those people would have to submit the appropriate CEUs with the request.

Ms. Newman noted that the BON would be initiating on-site visits to the CNA-DT training programs. These visits will begin in May and will be strictly educational. The facilities will be contacted prior to the visits.

Ms. Keyser questioned Ms. Newman regarding the backlog on background checks. She noted that staff licenses are being delayed due to the backlog. Ms. Newman reported that the 90-day permit may be extended for those who are experiencing the delay due to the background checks. She noted that the licensee must notify the BON 5 days prior to the expiration of the 90-day permit to request the extension. Ms. Newman encouraged the group to contact her with problems.

C. Dialysis Facility Disaster Plans

Mr. Frederick reported that the workgroup met in March and discussed what would happen if multiple facilities were shut down for a period of time. He noted that an emergency manager from Holy Cross Hospital and John Donahue from MIEMS attended the March meeting and reported that the Facility Resource Emergency Database System or FREDs could be utilized by the dialysis facilities. Mr. Frederick reported that the group is still considering additional criteria for the FREDs database. The local disaster managers or local health/county health officers would coordinate efforts during the emergency. He noted that representatives from the group would like to meet with the local health officers and that this effort is being coordinated.

Ms. Schwartz noted that each facility must have their own plan however last year there were 2-3 incidents that affected multiple facilities. This program would allow everyone to know what shared resources would be available.

Dr. Gimenez discussed the need to include the acute facilities. He noted that the acutes and hospital-based facilities have generators and more available resources during an emergency.

V. NEW BUSINESS

A. Kidney Disease Program - Stats and Budget

Ms. Manning presented the KDP budget.

Mr. Lehman noted that the KDP has been focused on improving communication. He reported that there is a monitored email account KDPinfor@dhhm.state.md.us and he encouraged everyone to utilize it. He reported that the KDP has 15 full and 1 part time staff member. He discussed the claims operations and eligibility determination processes. He noted that \$3.9 million was appropriated to cover KDP payments for the rest of this fiscal year.

Mr. Lehman noted that 8 providers were granted cash advances from the KDP. The total sum of the advances was approximately \$4.5 million. The KDP has requested the repayment of over payments of funds. Mr. Lehman and Mrs. Schwartz noted that if the funds were not repaid the KDP budget would have a deficit.

Mr. Simon inquired about the prioritizing of new KDP applicants. Ms. Manning reported that if there are issues the applications are pulled to triage the issue. She encouraged everyone to utilize the email account to report problems.

B. Transplant Center Communication

Ms. Adcock directed the guests' attention to a letter developed to improve facility/transplant center communication. She noted that the use of this letter is optional but according to the CFC V tag 561 facilities are required to communicate at least annually with the transplant centers. She noted that the letter would be posted on the Commission website.

C. Review of Issues with Vascular Access – Tricia Nay, MD, OHcq

Topic was tabled since Dr. Nay was unable to attend.

D. Request for Addition of LiquaCel to the KDP Formulary

Ms. Adcock reported that the manufacturer of this supplement has requested its addition to the KDP formulary. Ms. Adcock and Ms. Manning are researching the pricing. If the supplement is more expensive than Boost Plus it will not be able to be added due to budgetary constraints.

E. Citation Free Facility

Dr. Einhorn commended the following facility for achieving a citation free survey: DCA Rockville

F. New Facilities

Dr. Einhorn announced the following newly certified facilities:
Davita Kidney Home Center – February 9, 2009
Davita District Heights – March 9, 2009

G. Closed Facility

Dr. Einhorn reported that the following facility has closed:
Harford Gardens – February 24, 2009

H. Complaints

Mrs. Schwartz noted that the Commission has received the following types of complaints since the last meeting:

Written

- Patient complaint regarding being unknowingly being made inactive on the transplant list.
- Patient complaint regarding infection control at a dialysis facility.
- Health Officer complained regarding care of a dialysis patient with sepsis.
- Patient complaint regarding a staff member placing tape over his mouth.
- General complaints regarding care at dialysis facilities.

Verbal

- Patient complaint regarding infection control.
- Patient family member complaint regarding transfer of her brother from a facility against his will.
- Patient complaint regarding care received at a facility.
- Patient’s sister complaint regarding finding a center to accept her brother who is a bariatric patient.
- Social work complaint regarding KDP coverage for a patient.
- Patient complaint regarding difficulties obtaining an accurate weight.

Mrs. Schwartz reported that the Commission works closely with the OHCC on complaints. She noted that issues of patient welfare and safety are priorities and that complaints are dealt with and resolved as they come into the office. She pleaded with the facilities to be patient with the patients so that they are not discharged without a place to go for dialysis. She noted that there are several patients floating in the community without permanent centers.

I. Commission Approval/Disapproval for KDP Transplant Reimbursement

The following hospitals have been granted out of state transplant approvals:

Hospital	Granted	Refused
Washington Hospital Center	1	0
Georgetown University Hospital	1	0

J. Surveys (21)

The Commissioners reviewed the results of the surveys and the deficiencies noted:

Citations

Compliance with Federal, State and Local Laws and Regulations	0
Infection Control	7
Water and Dialysate Quality	13
Reuse of Hemodialyzers/Bloodlines	2
Physical Environment	9
Patient Rights	1 from complaint survey
Patient Assessment	10
Patient Plan of Care	11
Care at Home	2
Quality Assessment and Performance Improvement	10
Laboratory/Affiliation Guidelines	0
Personnel Qualifications/Staffing	11
Responsibilities of the Medical Director	0
Medical Records	4
Governance	5

K. Surveys Completed (21)

The following facilities have been surveyed since the last meeting:

Davita – Renal Care of Bowie	Artificial Kidney Center – Silver Spring
Montgomery Renal Center	UMMS Dialysis
FMC – Ft. Washington	FMC Anne Arundel
Davita Rockville	FMC LaPlata
Davita Northwest	Davita Southern Maryland
IDF Parkview	FMC Leonardtown
RCP Prince Frederick	FMC Ft. Foote
Good Samaritan – Manor Care	IDF Garrett
Memorial Hospital Dialysis	IDF Allegany
IDF Lions Manor	DCA Rockville
Davita Aberdeen	

CLOSED SESSION: Pursuant to Maryland State Government Annotated “10-508”, on a motion made by Dr. Roland Einhorn, the Commission unanimously voted to close its meeting on April 23, 2009 at 3:25 p.m., for the purpose of complying with the Maryland Medical Practice Act that prevents public disclosures about particular proceedings or matters.